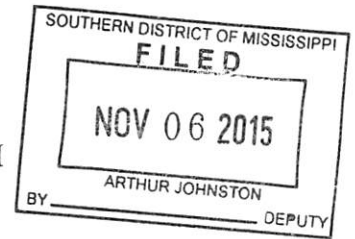


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION



KEYLA GREEN, INDIVIDUALLY, AND ON
BEHALF OF AND FOR THE USE AND BENEFIT
OF THE WRONGFUL DEATH BENEFICIARIES
OF DAUPHINE GREEN

PLAINTIFF

VS.

Civil Action No. 2:15cv147-KSMTP

SONG HEALTH & REHAB OF COLUMBIA,
LLC d/b/a SONG HEALTH & REHAB OF
COLUMBIA, COVENANT DOVE, LLC,
COVENANT DOVE HOLDING COMPANY, LLC,
ARK MISSISSIPPI HOLDING COMPANY, LLC,
RONNIE SIBLEY, UNIDENTIFIED ENTITIES 1-10,
AND JOHN DOES 1-10 (as to the SONG HEALTH &
REHAB FACILITY)

DEFENDANTS

NOTICE OF REMOVAL

COME NOW Defendants Song Health & Rehab of Columbia, LLC d/b/a Song Health & Rehab of Columbia ("SHR"), Covenant Dove, LLC, ("CD") Covenant Dove Holding Company, LLC, ("CDHC") and Ark Mississippi Holding Company, LLC, ("AMHC") (hereinafter collectively "Defendants") by and through counsel, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby give notice of removal of this action to the United States District Court for the Southern District of Mississippi, Eastern Division, and in support of removal represent the following:

1. On or about September 21, 2015, Plaintiff filed a civil action against Defendants (service of process was not effected on Defendants until October 8, 2015) as well as against Ronnie Sibley ("Mr. Sibley") in the Circuit Court of Marion County, Mississippi, styled *Keyla Green, Individually, and on Behalf of and for the Use and Benefit of the Wrongful Death Beneficiaries of*

Dauphine Green v. Song Health & Rehab of Columbia, LLC d/b/a Song Health & Rehab of Columbia, Covenant Dove, LLC, Covenant Dove Holding Company, LLC, Ark Mississippi Holding Company, LLC, Ronnie Sibley, Unidentified Entities 1-10, and John Does 1-10 (as to the Song Health & Rehab Facility), Cause No. 2015-0247 M. *See* Complaint (Ex. “A”).

2. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 in that (1) complete diversity exists between Plaintiff and all defendants who have not been improperly joined to defeat diversity and (2) the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

3. On information and belief, Plaintiff Keyla Green is a citizen of the State of Mississippi.

4. SHR, CD, CDHC, and AMHC are all Delaware limited liability companies and are all citizens of the States of Delaware and Tennessee.¹

5. Mr. Sibley, the sole non-diverse defendant, is an adult resident citizen of Mississippi whom Plaintiff has improperly joined in an effort to defeat diversity. *See* Para. 6, *infra*. Accordingly, he must be disregarded for purposes of evaluating diversity of citizenship and should be dismissed with prejudice.

6. Plaintiff’s complaint contains no allegations specifically addressing any purported conduct of Mr. Sibley. *See* Complaint (Ex. “A”). Nowhere in her 31-page complaint does Plaintiff allege Mr. Sibley’s purported role in this matter, if any, nor does she allege on what basis she contends that Mr. Sibley is personally liable under Mississippi law. *See id.* In the absence of any

¹ The sole member of SHR is AMHC. The sole member of AMHC is CD. The sole member of CD is CDHC. The sole member of CDHC is New Ark Investment, Inc., (“NAI”) a Delaware corporation having its principal place of business in Tennessee. Because NAI is a citizen of the States of Delaware and Tennessee, *see* 28 U.S.C. § 1332(c)(1), Defendants are all likewise citizens of the States of Delaware and Tennessee. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

allegations setting out a claim against Mr. Sibley individually, Plaintiff's complaint fails to establish a reasonable possibility of recovery against Mr. Sibley under Mississippi law. *See Johnson v. Trinity Mission Health & Rehab of Clinton, LLC*, Civil Action No. 3:15-cv-238-WHB-JCG, 2015 WL 4506898, at *3-4 (S.D. Miss. July 24, 2015). Therefore, his citizenship must be disregarded, and as between the remaining parties, there exists complete diversity of citizenship.

7. This action arises out of the alleged wrongful death of a nursing home resident. *See* Complaint (Ex. "A"). Consequently, it is facially apparent from Plaintiff's complaint that the amount in controversy exceeds this Court's jurisdictional threshold of \$75,000, exclusive of interest and costs.

8. The United States District Court for the Southern District of Mississippi, Eastern Division, are the district and division embracing the place where the aforementioned action was filed.

9. Because this action was filed on September 21, 2015, and Plaintiff effected service of process on Defendants on October 8, 2015, this notice of removal is timely filed pursuant to 28 U.S.C. § 1446(b),(c).

10. Defendants hereby give written notice of the filing of this notice of removal to Plaintiff, and a true and correct copy of this notice is being filed with Clerk of the Circuit Court of Marion County, Mississippi, as required by 28 U.S.C. § 1446(d).

11. Defendants would affirmatively state that to the best of their knowledge, information, and belief, no other defendants have been served with process in this matter.

12. A copy of the state court record required by L.U.Civ.R. 5(b) will be filed under separate cover pursuant to § 3(B)(2), ECF Procedures, Southern District.

13. In further support of this notice, Defendants attach copies of all process and pleadings served upon them in this action to date, as follows:

Exhibit "A" Complaint

Exhibit "B" Summons (SHR)

Exhibit "C" Summons (CD)

Exhibit "D" Summons (CDHC)

Exhibit "E" Summons (AMHC)

WHEREFORE, Defendants SHR, CD, CDHC, and AMHC hereby remove this action from the Circuit Court of Marion County, Mississippi, pursuant to 28 U.S.C. § 1441.

THIS, the 5th day of November, 2015.

Respectfully submitted,

SONG HEALTH & REHAB OF COLUMBIA, LLC D/B/A
SONG HEALTH & REHAB OF COLUMBIA,
COVENANT DOVE, LLC, COVENANT DOVE
HOLDING COMPANY, LLC, AND ARK MISSISSIPPI
HOLDING COMPANY, LLC, DEFENDANTS

BY: 
EUGENE R. NAYLOR (MSB #3757)
REX M. SHANNON III (MSB #102974)

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ATTORNEYS FOR DEFENDANTS SONG HEALTH & REHAB OF COLUMBIA, LLC D/B/A SONG HEALTH & REHAB OF COLUMBIA, COVENANT DOVE, LLC, COVENANT DOVE HOLDING COMPANY, LLC, AND ARK MISSISSIPPI HOLDING COMPANY, LLC

CERTIFICATE OF SERVICE

I, Rex M. Shannon III, one of the attorneys for Defendants Song Health & Rehab of Columbia, LLC d/b/a Song Health & Rehab of Columbia, Covenant Dove, LLC, Covenant Dove Holding Company, LLC, and Ark Mississippi Holding Company, LLC, do hereby certify that I have this date caused to be served, via U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to the following:

R. Paul Williams, III
Courtney M. Williams
WILLIAMS NEWMAN WILLIAMS, PLLC
Post Office Box 23785
Jackson, Mississippi 39225-3785

ATTORNEYS FOR PLAINTIFF

THIS, this 5th day of November, 2015.



REX M. SHANNON III